

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 709 - SB 688**

March 13, 2009

**SUMMARY OF BILL:** Requires a life without parole sentence for the offenses of child sexual predator, child rape or aggravated rape of a child if at least one of the offenses occurred on or after July 1, 2009.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$9,556,300/Incarceration\***

Assumptions:

- Under current law, child sexual predators, multiple rapists, and child rapists are required to serve the entire sentence imposed by the court undiminished by any sentence reduction credits. Under current law, a person convicted of aggravated rape of a child would be required to serve a sentence ranging between 40 and 60 years.
- According to the Department of Correction (DOC), the average post-conviction time served for a Class E felony is 1.63 years; 2.43 years for a Class D felony; 3.59 years for a Class C felony; 6.17 years for a Class B felony; and 14.86 years for a Class A felony.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The cost per offender at 6.17 years is \$134,727.00 (\$59.80 x 2,252.96 days). The cost per offender at 14.86 years is \$324,636.26 (\$59.80 x 5,428.70 days).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years.
- An average of 61 admissions for child rape offenses in each of the past 10 years. Population growth will result in six additional offenders in the tenth year. A recidivism discount of 42 percent has been applied to this estimate resulting in 28 offenders (67 offenders x 42% recidivism discount = 28 offenders). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 39 offenders (67 -

28) serving life without parole as a result of this bill. The cost per offender in the tenth year is \$218,419.50 ( $\$59.80 \times 3,652.50$  days). The total additional cost for 39 offenders is \$8,518,360.50 ( $\$218,419.50 \times 39$ ).

- According to DOC, there has been an average of 95 offenders admitted for Class B predatory offenses, 48 for Class C predatory offenses, and three Class E predatory offenses in each of the past 10 years. DOC assumes 10 percent ( $95 \times 10\% = 9.5$ ) of the Class B offenders would have prior convictions and would receive life without parole rather than 6.17 years (average time served) as a result of this bill in the first year. Population growth would result in one additional offender in the tenth year. A recidivism discount of 42 percent has been applied to this estimate resulting in 5 offenders ( $11 \text{ offenders} \times 42\% \text{ recidivism discount} = 4.62 \text{ offenders}$ ). The maximum cost in the tenth year is based on six offenders ( $11 - 5$ ). The cost per offender in the tenth year is \$218,419.50 ( $\$59.80 \times 3,652.50$  days). The additional cost of increasing the average sentence length from 6.17 years to life without parole is \$83,692.50 ( $\$218,419.50 - \$134,727.00$ ). The total additional operating cost for six offenders in the tenth year is \$502,155 ( $\$83,692.50 \times 6$ ).
- DOC assumes 10 percent ( $48 \times 10\% = 4.8$ ) of the Class C offenders would have prior convictions and would receive life without parole rather than 3.59 years (average time served) as a result of this bill in the first year. No significant incarceration cost increase will occur due to population growth in this period. A recidivism discount of 42 percent has been applied to this estimate resulting in 2 offenders ( $5 \text{ offenders} \times 42\% \text{ recidivism discount} = 2.10 \text{ offenders}$ ). The maximum cost in the tenth year is based on three offenders ( $5 - 2$ ). The cost per offender in the tenth year is \$218,419.50 ( $\$59.80 \times 3,652.50$  days). The additional cost of increasing the average sentence length from 3.59 years to life without parole is \$139,993 ( $\$218,419.50 - \$78,426.50$ ). The total additional operating cost for three offenders in the tenth year is \$419,979 ( $\$139,993 \times 3$ ).
- DOC estimates 10 percent ( $3 \times 10\% = 0.30$ ) of the Class E offenders would have prior convictions and would receive life without parole rather than 1.63 years (average time served) as a result of this bill in the first year. The maximum cost in the tenth year is based on one offender every three years serving additional time on their sentence. The cost per offender in the tenth year is \$218,419.50 ( $\$59.80 \times 3,652.50$  days). The annualized time served per conviction is 1,205.24 days ( $0.33 \text{ annual number of convictions} \times 3,652.50$ ). The annualized cost per conviction is \$72,078.13 ( $\$59.80 \times 1,205.32 \text{ days}$ ).
- One additional person every five years will be convicted of aggravated child rape with 50 years times served. The maximum cost in the tenth year is \$218,419.50 ( $\$59.80 \times 3,652.50$  days). The annualized time served per conviction is 730.50 days ( $0.20 \text{ annual number of convictions}$

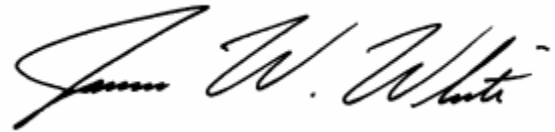
x 3,652.50 days). The annualized cost per conviction is \$43,683.90 (\$59.80 x 730.50 days).

- Total additional operating cost is \$9,556,256.53 (\$8,518,360.50 + \$502,155 + \$419,979 + \$72,078.13 + \$43,683.90).

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

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